

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

STATE OF IDAHO

In the Matter of the License of: )  
 ) Case No. SWO-2007-28  
DANIEL L. MESSICK, )  
License No. LCSW-27411, ) **STIPULATION AND**  
 ) **CONSENT ORDER**  
Respondent. )  
\_\_\_\_\_ )

WHEREAS, information has been received by the Idaho State Board of Social Work Examiners (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Daniel L. Messick ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of social work in the State of Idaho in accordance with title 54, chapter 32, Idaho Code.

A.2. The Board has issued License No. LCSW-27411 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 32, Idaho Code and the Board's rules at IDAPA 24.14.01, *et seq.*

A.3. Respondent was licensed as a Licensed Masters Social Worker in November 2002, and as a Licensed Clinical Social Worker in June 2006.

A.4. From approximately November 2003 to January 2004, while he was employed with an agency in Idaho Falls, Idaho, Respondent signed Partial Care Progress Notes for group sessions at which he was not present, which were directed by an unlicensed Masters of Social Work individual. During this time, the Idaho Department of Health and Welfare Rules Governing the Medical Assistance Program, IDAPA

16.03.09.469.10.e (2003), provided that, as to social workers, only a Licensed Masters Social Worker or Licensed Clinical Social Worker could provide partial care services.

A.5. On or about January 17, 2007, Respondent filed a complaint with the Board against the agency. According to Respondent, he was requested by the agency to sign the Partial Care Progress Notes for group sessions at which he was not present. According to Respondent, when he learned in January 2004 that it was not ethical to sign Partial Care Progress Notes for group sessions at which he was not present, Respondent explained to the unlicensed individual that he would not sign the Partial Care Progress Notes in the future and then Respondent resigned from the agency.

A.6. The allegations of Paragraph A.4 and A.5, if proven, would violate the laws and rules governing the practice of social work, specifically Idaho Code § 54-3211(3) (Board may discipline a licensee for deceit in connection with services rendered as a social worker) and Board Rule 450.01.b (social workers shall not misrepresent services performed). Violations of these laws and rules constitute grounds for disciplinary action against Respondent's license to practice social work in the State of Idaho.

### **B. Waiver of Procedural Rights**

I, Daniel L. Messick, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.1 through A.6. I further understand that these allegations constitute cause for disciplinary action upon my license to practice social work in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of social work in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into

this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

### **C. Stipulated Discipline**

C.1. Respondent is hereby issued a reprimand.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of Seven Hundred and No/100 Dollars (\$700.00) within sixty (60) days of the entry of the Board's Order.

C.3. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

## **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

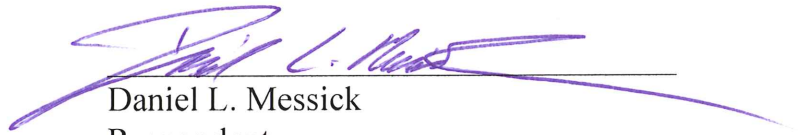
E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving

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certain rights accorded me under Idaho law. I understand that the Board may approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

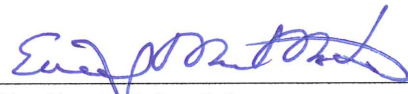
DATED this 5 day of May, 2009.

  
Daniel L. Messick  
Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 8<sup>th</sup> day of May, 2009.

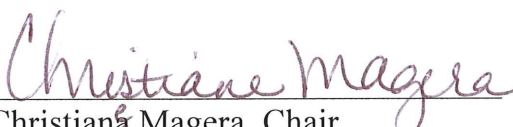
STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
Emily A. Mac Master  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-3204, the foregoing is adopted as the decision of the Board of Social Work Examiners in this matter and shall be effective on the 3 day of August, 2009. **IT IS SO ORDERED.**

IDAHO STATE BOARD  
OF SOCIAL WORK EXAMINERS

By   
Christiana Magera, Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3<sup>RD</sup> day of August, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Daniel L. Messick  
1231 N. Cornerstone Drive  
Idaho Falls, ID 83401

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Emily A. Mac Master  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

  
Tana Cory, Chief  
Bureau of Occupational Licenses